

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

LARRY LEE LEMAY,)
)
)
Plaintiff,)
)
) **No. 3:12-cv-0852**
v.)
)
KATHERINE OGILVIE,)
STEPHANIE STINSON, et al.,) **Judge Sharp**
)
)
Defendants.)

ORDER

Pending before the Court is a Report and Recommendation (“R & R”) of the Magistrate Judge, recommending that Defendant *Katherine Ogilvie’s Motion for Summary Judgment* (Docket Entry No. 35) be granted.¹ Specifically, the R & R provides in part,

As been noted, Plaintiff alleges that Defendant violated his Eighth and Fourteenth Amendment rights pursuant to 42 U.S.C. § 1983. Docket No. 1. Specifically, Plaintiff explicitly sues Defendant because she “failed to provide the prescribed medical treatment as ordered by the physician on-call, and failed to re-test Plaintiff’s blood sugar level.” *Id.* at 7.

Because Plaintiff has adduced no evidence in a form required by Fed. R. Civ. P. 56 that [Defendant] knew of, and “failed to provide[,] the prescribed medical treatment as ordered by the physician on-call,” Defendant is entitled to a judgment as a matter of law on this claim.

With regard to Plaintiff’s claim that Defendant [] failed to re-test his blood sugar level, Plaintiff cites no authority that this [act or lack thereof] rises to the level of a constitutional violation . . . Accordingly, Defendant is entitled to a judgment as a matter of law on this claim as well.

¹ Plaintiff did not file a response to the motion for summary judgment. He did, however, seek and receive two extensions of time to file a response. *See* (Docket Entry Nos. 38, 40, 44, and 45).

For the foregoing reasons, the undersigned recommends that Defendant's Motion for Summary Judgment be GRANTED.

(Docket Entry No. 49 at 6-7). No objections were made to the R & R.²

Where no objections are made to the R & R, “[t]he district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.” Fed. R. Civ. P. 72(b). Having thoroughly reviewed the record in this case and the applicable law in accordance with Rule 72(b), the Court will accept the R & R.

Accordingly, the Court hereby rules as follows:

- (1) The Report and Recommendation (Docket Entry No. 49) is hereby ACCEPTED and APPROVED;
- (2) Defendant *Katherine Ogilvie's Motion for Summary Judgment* (Docket Entry No. 35) is hereby GRANTED; and
- (3) The claims against Defendant Katherine Ogilvie are hereby DISMISSED WITH PREJUDICE.

This action is hereby returned to the Magistrate Judge for further pretrial management in accordance with Local Rule 16.01 for the claims against the remaining Defendants.

It is SO ORDERED.


KEVIN H. SHARP
UNITED STATES DISTRICT JUDGE

² Plaintiff received the R & R via Certified Mail on July 19, 2013. See (Docket Entry No. 51).